

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2138.04  
COMPLAINT INVESTIGATOR: Joe Bear  
DATE OF COMPLAINT: May 25, 2004  
DATE OF REPORT: June 24, 2004  
REQUEST FOR RECONSIDERATION: no  
DATE OF CLOSURE: December 1, 2004

**COMPLAINT ISSUES:**

With respect to Student A and Student B, whether the School City of East Chicago violated:

511 IAC 7-27-2(c) and (d) by failing to provide the parent with adequate written notice of the case conference committee (CCC) meeting scheduled for April 21, 2004, and by specifically failing to include the items required by sections (d)(2) through (7); and

511 IAC 7-27-4 by failing to utilize the CCC's to revise Student A's and Student B's individualized education programs (IEPs), and instead providing the parent with unilaterally developed IEPs, dated May 13, 2004, without CCC meetings.

With respect to Student A, whether the School City of East Chicago violated:

511 IAC 7-27-3(a)(4) by failing to invite a student over the age of 18 to the case conference committee (CCC) meeting; and

511 IAC 7-27-3(e)(4) by failing to ensure the participation in the CCC meeting of representatives of any agency likely to be responsible for providing or paying for transition services for the student.

**FINDINGS OF FACT:**

1. Student A and Student B are 20 and 16 years old, respectively, and attend the local high school. Both students are eligible for special education and related services as students with a moderate mental disability.
2. The following dates and circumstances are identical for Student A and Student B. The Complainant received a letter for each student from the School, dated March 4, 2004, which stated the School was starting the Annual Case Review process, and asked the Complainant if she could make a meeting on April 21, 2004, to discuss the student's progress and placement. The Complainant hand-delivered the letter back to the TOR, filled out to show that she would plan to meet at the suggested time, and requested to know who would be at the meeting. The Complainant wanted to know if there would be any "outside service people" there, such as a vocational rehabilitation (VR) representative for Student A. The TOR told the Complainant that she would receive the list of participants.
3. The School's policy is, upon receiving the initial contact letter back from the parent, to mail a second letter with a home activity interview form, a parent selection form (for activities that might be included in

a student's IEP), and a list of participants expected at the CCC meeting, with a confirmation of the date, time, and location. None of the forms or letters includes a statement that the parent has protection under the procedural safeguards of special education law. The Complainant received the initial contact letter and the second letter, but there is no documentation that the Complainant received the other forms, including the final confirmation form regarding the scheduled April 21, 2004, CCC meeting. The Complainant received no further written notification regarding the April 21, 2004, CCC meeting.

4. On April 19, 2004, the Complainant received a call from the TOR's aide, advising that there would not be a VR representative present on April 21. The Complainant did not understand that there would not be a meeting, and says this was not communicated by the aide. The School did not want to conduct the meeting for Student A without the VR counselor present. When the Complainant went to the School on April 21, the other CCC members were not present. The TOR conferenced with the Complainant privately and verbally arranged another CCC meeting for May 12, 2004, for Student A and Student B.
5. The Complainant received Notices of Case Conference Committee Meetings, dated April 26, 2004, regarding the CCC meetings on May 12 for Student A and Student B. Each notice says that the purpose of the meeting is to discuss test results, lists participants, and says that records and data will be discussed regarding intelligence, achievement, gross and fine motor skills, and language/communication skills. The Complainant showed up for the meeting on May 12. The Complainant's initials and Student A's initials appear on Student A's IEP to signify their participation in the CCC meeting on that date. However, the CCC meeting for Student B was postponed until the fall. One copy of the IEP for Student B states, "As per parent request, this conference will be rescheduled one to two weeks prior to the start of school in the fall. The guardian is aware that it will be past the year limit (for the IEP), but still prefers it in the fall." A letter from the Complainant to the Director of Special Education, dated May 14, says that the Complainant is looking forward to meeting with the Director and the CCC in August 2004. The May 14 letter also expresses general disagreement with the IEPs.
6. The Special Education Consultant gave the Complainant an IEP for each student, dated May 13, 2004. The date on each IEP was an error; the IEP (for Student A) was created on May 12, and no meeting was held on May 13. Concerning Student B's IEP, the Director stated, "Because [the Complainant] would not give us a date before August 2004 ..., we had to develop a draft dated 5/13/04 in order to have an IEP that is not older than twelve (12) months." The goals and observations submitted by the TOR and other CCC members for Student B were used to develop the IEP for Student B, without a meeting and in the absence of the Complainant. No documentation has been provided to show that either IEP is a draft.
7. The Complainant had contacted the VR counselor prior to the May 12 CCC meeting, to invite her to attend. Although the Complainant says that the VR counselor did not know about the CCC meeting when she called, the School faxed the VR office the notice of the meeting and a request for a VR counselor to attend on May 4. Student A's IEP states that the VR counselor provided input for the CCC meeting but did not attend. However, on one copy of Student A's IEP, the VR counselor's signature signifies her participation.
8. There is no documentation to establish that the Complainant has obtained guardianship for Student A. The School continues to treat the Complainant as the legal guardian for Student A, and has not shown documentation that an invitation was sent to Student A for the CCC meeting on May 12.

## **CONCLUSIONS:**

1. Findings of Fact #2, #3, and #4 indicate that, for both Students A and B, the School failed to provide adequate notice of the CCC meeting scheduled for April 21, 2004. Therefore, a violation of 511 IAC 7-27-2(c) and (d) has been found.
2. Findings of Fact #5 and #6 indicate that the School prepared an IEP for Student B in the absence of a CCC meeting and submitted it to the Complainant for her review. Therefore, a violation of 511 IAC 7-27-4 has been found, with respect to Student B. No violation is found with respect to Student A.
3. Finding of Fact #7 indicates that the School did ensure the participation of a vocational rehabilitation representative in the CCC meeting on May 12. Therefore, a violation of 511 IAC 7-27-3(e)(4) has not been found.
4. Findings of Fact #1 and #8 indicate that Student A is over 18 years of age and is not subject to guardianship. Pursuant to 511 IAC 7-28-4, the rights maintained by the parent for purposes of special education transferred to Student A. Student A was not invited to the CCC meeting on May 12. Therefore, a violation of 511 IAC 7-27-3(a)(4) has been found.

**The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The School City of East Chicago shall:

1. Provide an assurance statement clearly stating that the School will provide adequate notice of all CCC meetings in the future, fulfilling all parts of 511 IAC 7-27-2(d)(2) through (7). The School will include an assurance that students over the age of 18 will be invited to CCC meetings in the future. **Provide a copy of the assurance statement to the Division by July 16, 2004.**
2. Reconvene the CCC for Student B prior to the first day of school to review and, if necessary, to revise the IEP. **Provide a copy of the CCC report to the Division by September 10, 2004.**
3. Inform special education teachers, by memorandum or presentation at a meeting, that the case conference committee process must be utilized when revising an IEP. **Provide a copy of the memorandum or a summary of the presentation, together with a list of the recipients of the memorandum or participants in the meeting, to the Division by September 10, 2004.**